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C O N F I D E N T I A L SECTION 01 OF 03 BAKU 001523

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SUBJECT: OSCE MEDIA FREEDOM REPRESENTATIVE ADDRESSES MEDIA  
FREEDOM PROBLEMS IN AZERBAIJAN

REF: BAKU 1484

Classified By: Ambassador Anne E. Derse for reasons 1.4 b and d.

11. (C) Summary: OSCE Special Representative for Media Freedom Miklos Haraszti visited Baku October 8 to 11 in response to the international community's concern over the deteriorating state of media freedom in Azerbaijan. At a October 9 briefing for OSCE member states, Haraszti reported that President Aliyev rejected the OSCE's criticism of Azerbaijan's media freedom record, and defended the right of GOAJ officials to criminally sue irresponsible journalists for libel. Haraszti affirmed that imprisoning journalists for libel was contrary to Azerbaijan's human rights commitments and inconsistent with the standards of other OSCE member states. Although Aliyev rebuffed Haraszti's criticism in their October 9 meeting, he subsequently privately told the British Ambassador (strictly protect) that he would likely pardon imprisoned journalists in October. In a separate meeting with Foreign Minister Mammadyarov, Haraszti expressed the international community's concern over the GOAJ media regulator's failure to re-license ANS TV and Radio, and over its recent attempt to stop ANS' daily broadcast of VOA, RFE/RL and BBC programming in Azerbaijan. Haraszti said that he considers the VOA, RFE/RL and BBC broadcasts to be compliant with international standards, rejecting the GOAJ position that these foreign programs required individual domestic broadcast licenses from GOAJ media regulators. FM Mammadyarov was more receptive to the media freedoms message. End Summary.

OSCE REP. ASSESSES DETERIORATION IN MEDIA FREEDOM  
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12. (C) OSCE Special Representative for Freedom of the Media Miklos Haraszti visited Baku October 8 to 11 in response to growing international community concern over the deterioration of media freedoms in Azerbaijan. On October 9 Haraszti met with President Aliyev and Foreign Minister Mammadyarov and thereafter briefed OSCE member state Ambassadors and diplomats on the substance of his talks. Haraszti affirmed that, in the OSCE's assessment, media freedom in Azerbaijan has steadily eroded over the past six months. Haraszti cited the number of libel suits filed by politicians against journalists, two still unresolved physical assaults on opposition reporters, the imprisonment of political satirist Mirza Sakit, the GOAJ failure to reissue the broadcast license of ANS television, and its recent attempt to cut off ANS and AntennFM rebroadcasting of VOA, RFE/RL and BBC programming (reftel) as specific concerns. Haraszti also said that he applied the "taxi driver test" to the Mirza Sakit case, asking ordinary Azeris what they thought about Sakit's imprisonment on drug possession charges, with most drivers generally dismissing the charges as a set up.

13. (C) Haraszti said that the GOAJ practice of criminally

prosecuting journalists for libel was inconsistent with the rulings of the European Court of Human Rights (ECHR) and with Azerbaijan's commitments under the European Convention on Human Rights (ECHR). To date, he added, five journalists have been charged and sentenced to prison on criminal libel charges. Haraszti said that all other OSCE member states have either de facto or de jure prohibitions on criminal libel prosecutions. Haraszti described the sudden rise in criminal libel as an indication that the 2005 "Aliyev moratorium" on libel suits had effectively ended. (President Aliyev announced a moratorium on libel suits after the March 2005 murder of prominent opposition journalist Elmar Huseynov.)

ALIYEV REBUFFS OSCE CRITICISM...

¶4. (C) Haraszti reported that President Aliyev was generally "negative" in their October 9 meeting. When pressed on the rising number of criminal libel suits, Aliyev replied that he could not be expected to stop his ministers from suing libelous journalists to protect their reputations. Haraszti reminded Aliyev of the positive impact Aliyev's March 2005 moratorium on libel suits had on the Azerbaijani media climate, but Haraszti reported that Aliyev seems unmoved by the argument. Haraszti said that he made the mistake of telling Aliyev that Georgia (and the rest of the GUAM states) had already decriminalized libel, which only seemed to offend Aliyev and harden his opposition against decriminalizing libel.

¶5. (C) According to Haraszti, Aliyev said that he expected journalists to take the first step after the 2005 moratorium through more responsible reporting but that instead journalists continued to "slander and attack public

BAKU 00001523 002 OF 003

officials." However, Aliyev reiterated he himself had never filed a criminal libel suit against any reporter. According to Haraszti, Aliyev was downbeat on the possibility of passing legislation to decriminalize libel. (Presidential political advisor Ali Hasanov echoed this position at the OSCE's October 11 roundtable on defamation suits.) Haraszti told Aliyev that it was possible for politicians to obtain satisfaction against slander through the civil suit process and that criminal libel prosecution was not consistent with Azerbaijan's democratic aspirations. Aliyev reportedly pushed back, chastising Haraszti for the OSCE's continued criticism of GOAJ performance on human rights and democracy, and adding that the GOAJ did not receive sufficient acknowledgment for taking positive steps forward in the larger picture of Azerbaijan's transition toward democracy.

...BUT A PARDON FOR SENTENCED JOURNALISTS LIKELY

¶6. (C) Haraszti asked President Aliyev to consider pardoning the imprisoned journalists on the occasion of Azerbaijani sovereignty day on October 18. Subsequent to the Aliyev-Haraszti meeting, Haraszti said his staff received a phone call from the president's office requesting the names of those journalists imprisoned for criminal libel. Separately, British Ambassador Laurie Bristow (strictly protect) told the Ambassador October 10 that President Aliyev told him privately that he would pardon the journalists imprisoned for libel in the near future. Aliyev also told Bristow that he would look again at the question of decriminalizing libel.

OSCE REP: FOREIGN BROADCASTS CONSISTENT WITH INTL STANDARDS

¶7. (C) The Ambassador and British Ambassador Bristow underscored to Haraszti the USG and British government's concern over the National TV and Radio Council's (NTRC) unilateral prohibition on ANS TV's right to rebroadcast VOA, RFE/RL and BBC (reftel). Haraszti said that he raised the

question of VOA, RFE/RL and BBC rebroadcasting rights and the problem of the NTRC's failure to reissue ANS' broadcast license in over a year with Foreign Minister Mammadyarov. Haraszti said that his office believes the NTRC's claim that VOA, RFE/RL and BBC require a separate license agreement to be broadcast on domestic channels to be inconsistent with internationally accepted media broadcast standards. Haraszti assessed that foreign broadcasts are private contracts between ANS TV and AntennFM radio, and VOA, RFE/RL and the BBC, that do not require individual licenses. Haraszti said he believed the NTRC's action to be yet another attempt at harassing ANS TV and radio.

18. (C) Mammadyarov reportedly was sympathetic to the OSCE's media freedom concerns, telling Haraszti that ANS is the best television channel in Azerbaijan and the one that he watches most. Haraszti said that the Foreign Minister recognized that these individual media freedom problems (libel suits, assaults, licensing disputes) taken together harm Azerbaijan's international reputation. Mammadyarov also acknowledged that if journalists had the money, some would appeal their sentences to the ECHR and would have legitimate cases. Mammadyarov told Haraszti that the GOAJ and OSCE should work together to increase the quality of journalism in Azerbaijan through further training programs and exchange opportunities.

#### GOAJ LICENSING SYSTEM ANTIQUATED

19. (C) Haraszti told OSCE diplomats that the entire GOAJ approach to licensing, codified in the 2002 national television and radio law, is cumbersome and outmoded in the digital age. Haraszti said that license systems such as Azerbaijan's were created because of the scarcity of surface broadcast frequencies on which to transmit programming; a scarcity problem eliminated in the U.S. and Europe by our transition to digital broadcasting. Consequently, Azerbaijan's "new" licensing regime is already a relic of the past.

#### COMMENT

110. (C) While it is too early to say for sure, Haraszti's long overdue visit to Baku appears to have had some impact on President Aliyev, who privately committed himself to pardoning the imprisoned journalists a day after meeting Haraszti. However, GOAJ intransigence on decriminalizing libel, the unresolved physical assaults on two journalists, the imprisonment of Mirza Sakit, and the NTRC's latest effort

BAKU 00001523 003 OF 003

to attack ANS TV and Radio by stopping VOA and RFE/RL programming, make clear that a presidential pardon is the first of several steps needed to redress the deterioration of the media environment over the past six months. We will continue to press the issue.  
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